

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN ASSEMBLY JUNE 15, 2005

AMENDED IN SENATE MAY 3, 2005

SENATE BILL

No. 576

Introduced by Senator Ortiz

February 18, 2005

An act to add Section 1367.27 to the Health and Safety Code, and to add Section 10123.175 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 576, as amended, Ortiz. Health care coverage: tobacco cessation services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a violation of the ~~act's provisions~~ *act* a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health care service plan and a health insurer are deemed to provide coverage for specified tests, including all generally medically accepted cancer screening tests.

This bill would require certain health care service plan contracts and health insurance policies that provide outpatient prescription drug benefits to also provide coverage for tobacco cessation services, ~~as specified~~, and would impose limits on copayments for those services.

Because a violation of the ~~bill's provisions~~ *bill* with respect to a health care service plan would be a crime, ~~this bill~~ *it* would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares:
- 2 (a) Providing tobacco cessation counseling and medication is
- 3 one of the most clinically effective and cost-effective health
- 4 services available, second only to inoculations. Tobacco
- 5 cessation is five to 80 times more cost-effective than
- 6 pharmacologic interventions used to prevent heart attacks.
- 7 (b) More than 70 percent of smokers wish they could quit
- 8 tobacco, and each year one of every two smoker's attempts to
- 9 quit. However, the unassisted successful tobacco quit rate has
- 10 remained constant at less than five percent. Access to counseling
- 11 and pharmaceutical benefits doubles the successful quit rate and
- 12 has achieved quit rates of 25 to 30 percent. Experience in health
- 13 plans indicates that access to all cessation services saves four
- 14 dollars (\$4) for every dollar (\$1) invested.
- 15 (c) Each adult smoker costs employers one thousand seven
- 16 hundred sixty dollars (\$1,760) in lost productivity and one
- 17 thousand six hundred twenty-three dollars (\$1,623) in excess
- 18 medical expenditures. Men who smoke incur fifteen thousand
- 19 eight hundred dollars (\$15,800) more lifetime medical expenses
- 20 than do men who do not smoke. For employers, the ultimate
- 21 financial return is between five dollars (\$5) and six dollars (\$6)
- 22 dollars for every dollar spent on tobacco cessation.
- 23 (d) Because of member transfers between plans, financial
- 24 savings and tobacco related disease reductions are effective only
- 25 if universally available to the entire insured population.
- 26 Therefore a mandate on all plans and insurers to provide
- 27 cost-effective treatment is necessary and beneficial.
- 28 (e) It is the intent of the Legislature that this act diminish the
- 29 statewide economic and personal cost of tobacco addiction by

1 making tobacco cessation treatments available to all smokers.
2 California has successfully reduced tobacco consumption in the
3 last decade, but, despite that success, tobacco use is responsible
4 for the unnecessary deaths of 40,000 residents and remains the
5 leading cause of preventable death in this state. Annually,
6 tobacco addiction costs California \$8.6 billion in direct medical
7 costs, which is approximately 12 percent of all health care costs.

8 SEC. 2. Section 1367.27 is added to the Health and Safety
9 Code, to read:

10 1367.27. (a) A health care service plan contract, except a
11 specialized health care service plan contract, that is issued,
12 amended, delivered, or renewed on or after July 1, 2006, that
13 provides outpatient prescription drug benefits, shall include
14 coverage for the following tobacco cessation services:

15 ~~(1) Personal counseling for a minimum of four counseling~~
16 ~~sessions of at least 30 minutes each, including proactive~~
17 ~~telephone counseling or individual counseling.~~

18 ~~(2) Brief cessation intervention by physician and clinical staff~~
19 ~~including asking about tobacco use status, advising regarding a~~
20 ~~quit attempt, assisting in a quit attempt, and arranging cessation~~
21 ~~services.~~

22 ~~(3) All prescription and over-the-counter tobacco cessation~~
23 ~~medications approved by the Food and Drug Administration to~~
24 ~~help smokers quit. These drugs include drugs for nicotine~~
25 ~~replacement therapy and prescription drug therapies in, but not~~
26 ~~limited to, the form of gum, dermal patch, inhaler, nasal spray~~
27 ~~and lozenge, and Bupropion SR or similar drugs that counter the~~
28 ~~urge to smoke or the addictive qualities of nicotine. Nothing in~~
29 ~~this paragraph shall be construed to interfere with accepted~~
30 ~~pharmacy management practices for services offered pursuant to~~
31 ~~this section, including the use of formularies and participating~~
32 ~~pharmacy networks, however, the only allowable copayments are~~
33 ~~those described in subdivision (b).~~

34 ~~(4) Enrollees, beneficiaries, and their providers may select a~~
35 ~~course of treatment and those services and products that they~~
36 ~~prefer. Coverage for personal counseling and medication,~~
37 ~~whether by prescription or over-the-counter, may be limited to~~
38 ~~two courses of treatment per year. Referrals for tobacco cessation~~
39 ~~services, the outcome of the referrals, and the smoking status of~~
40 ~~referred beneficiaries shall be entered into the patient's medical~~

~~record. tobacco cessation services that include two courses of treatment in a 12-month period including personal counseling, which may be telephone or individual, and FDA-approved medication for tobacco cessation, including prescription and over-the-counter medications. Covered treatment shall comply with the Public Health Service sponsored 2000 clinical practice guideline, "Treating Tobacco Use and Dependence," or its successors.~~

(b) No copayment or deductible shall be applied to benefits for over-the-counter tobacco cessation medications that are allowed in paragraph (3) of subdivision (a). ~~Allowable Otherwise copayments shall not exceed fifteen dollars (\$15) per regimen of counseling sessions as described in paragraph (1) of subdivision (a), per visit as described in paragraph (2) of subdivision (a), or per prescription as described in paragraph (3) of subdivision (a).~~

(c) A health care service plan may contract with qualified local, statewide or national providers, whether for-profit or nonprofit, for the provision of services under this section.

~~(d) Coverage for interventions shall include reimbursement for physician counseling in the office, reimbursement for provision of physician provided tobacco cessation counseling and assistance with implementation of office-based systems to help providers identify and treat patients.~~

~~(e) A health care service plan shall disclose the benefits under this section in its evidence of coverage and disclosure forms and communicate the availability of coverage to all group subscribers.~~

~~(f) For the purposes of this section, benefits for tobacco cessation shall comply with the Public Health Service sponsored 2000 clinical practice guideline, "Treating Tobacco Use and Dependence" or its successors.~~

~~(g)~~
(d) *A health care service plan shall disclose the benefits under this section in its evidence of coverage and disclosure forms and communicate the availability of coverage to all enrollees.*

(e) The coverage provided pursuant to this section shall only be available upon the order of a physician.

SEC. 3. Section 10123.175 is added to the Insurance Code, to read:

1 10123.175. (a) Every individual or group health insurance
2 policy that is issued, amended, delivered, or renewed on or after
3 July 1, 2006, that provides outpatient prescription drug benefits,
4 shall include coverage for ~~the following tobacco cessation~~
5 ~~services:~~

6 ~~(1) Personal counseling for a minimum of four counseling~~
7 ~~sessions of at least 30 minutes each, including proactive~~
8 ~~telephone counseling or individual counseling.~~

9 ~~(2) Brief cessation intervention by physician and clinical staff~~
10 ~~including asking about tobacco use status, advising regarding a~~
11 ~~quit attempt, assisting in a quit attempt, and arranging cessation~~
12 ~~services.~~

13 ~~(3) All prescription and over-the-counter tobacco cessation~~
14 ~~medications approved by the Food and Drug Administration to~~
15 ~~help smokers quit. These drugs include drugs for nicotine~~
16 ~~replacement therapy and prescription drug therapies in, but not~~
17 ~~limited to, the form of gum, dermal patch, inhaler, nasal spray~~
18 ~~and lozenge, and Bupropion SR or similar drugs that counter the~~
19 ~~urge to smoke or the addictive qualities of nicotine. Nothing in~~
20 ~~this paragraph shall be construed to interfere with accepted~~
21 ~~pharmacy management practices for services offered pursuant to~~
22 ~~this section, including the use of formularies and participating~~
23 ~~pharmacy networks, however, the only allowable copayments are~~
24 ~~those described in subdivision (b).~~

25 ~~(4) Enrollees, beneficiaries, and their providers may select a~~
26 ~~course of treatment and those services and products that they~~
27 ~~prefer. Coverage for personal counseling and medication,~~
28 ~~whether by prescription or over-the-counter, may be limited to~~
29 ~~two courses of treatment per year. Referrals for tobacco cessation~~
30 ~~services, the outcome of the referrals, and the smoking status of~~
31 ~~referred beneficiaries shall be entered into the patient's medical~~
32 ~~record.~~ *tobacco cessation services that include two courses of*
33 *treatment in a 12-month period including personal counseling,*
34 *which may be telephone or individual, and FDA-approved*
35 *medication for tobacco cessation, including prescription and*
36 *over-the-counter medications. Covered treatment shall comply*
37 *with the Public Health Service sponsored 2000 clinical practice*
38 *guideline, "Treating Tobacco Use and Dependence," or its*
39 *successors.*

(b) No copayment or deductible shall be applied to benefits for over-the-counter tobacco cessation medications that are allowed in paragraph (3) of subdivision (a). ~~Allowable~~ *Otherwise* copayments shall not exceed fifteen dollars (\$15) ~~per regimen of counseling sessions as described in paragraph (1) of subdivision (a), per visit as described in paragraph (2) of subdivision (a), or per prescription as described in paragraph (3) of subdivision (a).~~

(c) A health insurer may contract with qualified local, statewide or national providers, whether for-profit or nonprofit, for the provision of services under this section.

~~(d) Coverage for interventions shall include reimbursement for physician counseling in the office, reimbursement for provision of physician provided tobacco cessation counseling and assistance with implementation of office-based systems to help providers identify and treat patients.~~

~~(e) A health insurance policy shall disclose the benefits under this section in its evidence of coverage and disclosure forms and communicate the availability of coverage to all group subscribers.~~

~~(f) For the purposes of this section, benefits for tobacco cessation shall comply with the Public Health Service sponsored 2000 clinical practice guideline, "Treating Tobacco Use and Dependence" or its successors.~~

~~(g)~~
(d) A health insurance policy shall disclose the benefits under this section in its evidence of coverage and disclosure forms and communicate the availability of coverage to all enrollees.

(e) The coverage provided pursuant to this section shall only be available upon the order of a physician.

~~(h)~~
(f) This section shall not apply to a Medicare supplement, short-term limited duration health insurance, vision-only, dental-only, or Champus-supplement insurance, or to hospital indemnity, hospital-only, accident-only, or specified diseased insurance that does not pay benefits on a fixed benefit, cash payment only basis.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the
2 penalty for a crime or infraction, within the meaning of Section
3 17556 of the Government Code, or changes the definition of a
4 crime within the meaning of Section 6 of Article XIII B of the
5 California Constitution.

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